

Matthew Borden, Esq. (SBN: 214323)
borden@braunhagey.com
David H. Kwasniewski, Esq. (SBN: 281985)
kwasniewski@braunhagey.com
Tracy O. Zinsou, Esq. (SBN: 295458)
zinsou@braunhagey.com
BRAUNHAGEY & BORDEN LLP
351 California Street, 10th Floor
San Francisco, CA 94104
Telephone: (415) 599-0210
Facsimile: (415) 599-0210

ATTORNEYS FOR DEFENDANTS
IT WORKS MARKETING, INC.,
IT WORKS! GLOBAL, INC.,
MARK PENTECOST, AND PAUL NASSIF

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

AILEEN BROOKS, on behalf of herself
and all others similarly situated,

Plaintiff,

v.

IT WORKS MARKETING, INC.,
IT WORKS! GLOBAL, INC., MARK
PENTECOST, and PAUL NASSIF,

Defendants.

Case No: 1:21-cv-01341-DAD-BAK (SKO)

**DECLARATION OF DAVID
Kwasniewski IN SUPPORT OF
DEFENDANTS' MOTION FOR
SANCTIONS**

Date: June 21, 2022
Time: 9:30 a.m.
Judge: The Hon. Dale A. Drozd

Complaint September 3, 2021
Filed:

1 I, David Kwasniewski declare:

2 1. I am licensed to practice before this Court and am counsel of record for Defendants
3 It Works Marketing, Inc., It Works! Global, Inc., Mark Pentecost, and Paul Nassif (collectively,
4 “Defendants”). I make this declaration based on personal knowledge. If called as a witness, I
5 could, and would, testify competently to the facts stated herein.

6 2. BraunHagey & Borden LLP’s (“BHB”) attorneys almost exclusively hail from top
7 law firms, including Quinn Emanuel Urquhart & Sullivan, LLP, Morrison & Foerster LLP, Kecker,
8 Van Nest & Peters LLP, Steptoe & Johnson, LLP, Akin Gump Strauss Hauer & Feld LLP,
9 Gunderson Dettmer Stough Villeneuve Franklin & Hachigian, LLP, Latham & Watkins, LLP,
10 Covington & Burling LLP, Simpson Thacher & Bartlett LLP, Fenwick & West LLP, and Kirkland
11 & Ellis LLP. Firms of that caliber are regularly opposing counsel on BHB’s cases. Based on my
12 experience with the Northern California legal market, rates regularly exceed \$1000+, and BHB’s
13 hourly rates for partners, associates, and paralegals are significantly lower than those charged by
14 comparably experienced and talented lawyers in the Bay Area.

15 3. BHB’s hourly rates, including my rate specifically, have been approved by the
16 Northern District of California. *See Optronix Techs., Inc v. Ningbo Sunny Elec. Co.*, No. 5:16-CV-
17 06370-EJD, Dkt. No. 629, 2020 WL 1667435, at *14 (N.D. Cal. Apr. 3, 2020) (approving BHB’s
18 hourly rates, including mine); *Walker v. B&G Foods, Inc., et al.*, Case No. 16-15349, slip op. at
19 306, Dkt. No. 26 (9th Cir. 2017) (finding BHB’s rates to be reasonable); *Hill v. Robert’s American*
20 *Gourmet Food, LLC*, No. 3:13-mc-80166-JST, Dkt. No. 17, slip op. at 1-2 (N.D. Cal. Oct. 11,
21 2013) (granting BHB’s motion for fees at an hourly rate of \$695 in 2013).

22 4. Matthew Borden is a founding partner of BHB. After law school, he clerked for the
23 Honorable William Alsup in the United States District Court for the Northern District of California.
24 He practiced at Morrison & Foerster LLP before co-founding BHB. He has tried cases in state and
25 federal court and successfully argued appeals before the Ninth Circuit, the Federal Circuit and the
26 California Courts of Appeal. He has successfully represented Fortune 500 companies, private
27 equity funds, financial institutions, and foreign governments in billion-dollar lawsuits and other
28 high-stakes litigation (some of his former clients include Bank of America, Kyocera Corp., Wells

1 Fargo Bank, and the Government of Egypt). His hourly rate is \$815.00 per hour. He spent an
2 efficient 32.50 hours litigating this case.

3 5. Tracy Zinsou is an associate at BHB who has eleven years of commercial litigation
4 experience. She graduated from Harvard Law School in 2010. She has extensive experience
5 litigating high-stakes cases in state and federal courts across the country. She has successfully
6 defended cases and prosecuted claims for clients from startups to Fortune 500 companies in a
7 diverse range of complex commercial litigation cases. Her hourly rate is \$695.00 per hour, and she
8 spent an efficient 78.50 hours litigating this case.

9 6. Pratik K. Raj Ghosh is an associate at BHB. He graduated from Vanderbilt University
10 Law School in 2017 and has over four years of litigation experience. His hourly rate is \$625.00 per
11 hour, and he has spent an efficient 181.70 hours litigating this case.

12 7. I am a partner at BHB who has nine years of commercial litigation experience. I am
13 a graduate of Cornell Law School, who clerked for the Honorable Curtis V. Gomez, Chief Judge of
14 the District Court of the United States Virgin Islands. In private practice, I have first chaired
15 federal and state jury trials. My hourly rate is \$675.00 per hour. I have spent an efficient 82.90
16 hours litigating this case.

17 I declare under penalty of perjury under the laws of the United States that the foregoing is
18 true and correct to the best of my knowledge.

19
20 Dated: May 19, 2022

By: 
David Kwasniewski